

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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RENEE BRYANT,

Plaintiff,

-against-

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

20-cv-6933 (MKV)

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

MARY KAY VYSKOCIL, United States District Judge:

Renee Bryant commenced this action against the Commissioner of the Social Security Administration, pursuant to the Social Security Act, 42 U.S.C. § 405(g), challenging the final decision of the Commissioner of Social Security (“Commissioner”) that denied her application for Supplemental Security Income Benefits (“SSIB”) and Disability Insurance Benefits (“DIB”). The Court referred the case to Magistrate Judge Cave. [ECF No. 12]. Bryant filed a motion for judgment on the pleadings, pursuant to Rule 12(c) of the Federal Rules of Civil Procedure, asking the Court to reverse the Commissioner’s finding that she was not disabled and remand the case solely for the calculation and payment of benefits or, in the alternative, for a further hearing. [ECF Nos. 24, 25]. The Commissioner filed a cross-motion for judgment on the pleadings, asking the Court to affirm the Commissioner’s decision. [ECF Nos. 28, 29].

Magistrate Judge Cave issued a Report and Recommendation, which recommended that the Court deny Bryant’s motion for judgment on the pleadings, and grant the Commissioner’s motion. [ECF No. 31]. No party timely filed any objections to Magistrate Judge Cave’s Report and Recommendation, nor has the Court received any untimely objections.

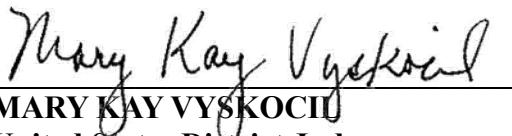
In reviewing a magistrate judge’s report and recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the

magistrate judge.” 28 U.S.C. § 636(b)(1)(C). The Court reviews a report and recommendation to which no objections are filed for clear error. *See* Fed. R. Civ. P. 72; *Colvin v. Berryhill*, 734 F. App’x 756, 758 (2d Cir. 2018); *Edwards v. Fischer*, 414 F. Supp. 2d 342, 346-47 (S.D.N.Y. 2006). The Court has reviewed the Report and Recommendation and finds it to be well reasoned and grounded in fact and law. In short, Magistrate Judge Cave correctly concluded that, despite legibility issues presented by certain medical notes, the Administrative Law Judge (“ALJ”) was not required to take additional steps to develop the record, since there is no reason for the Court to assume that the small percentage of illegible entries contain significantly different findings from those contained in the legible entries, which are highly consistent over the entire period of Bryant’s treatment. *See Anzola v. Berryhill*, No. 18-cv-11217, 2019 WL 10630956, at *15 (S.D.N.Y. Dec. 20, 2019). Accordingly, Magistrate Judge Cave’s Report and Recommendation is ADOPTED in its entirety. Bryant’s motion is denied, and the Commissioner’s motion is granted.

The Clerk of Court is respectfully requested to close this case.

SO ORDERED.

Date: December 6, 2022
New York, NY



MARY KAY VYSKOCIL
United States District Judge